

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OGC 79-07298
8 August 1979

OGC Has Reviewed

Michael T. Blouin
Director, Information Security
Oversight Office
General Services Administration
Washington, D.C. 20405

Dear Mike:

This is a brief response to your comments regarding this Agency's implementation of the "balancing test" provisions of Executive Order 12065.

STATINTL

The balancing test involves fairly complex legal and policy issues that have been addressed several times during the course of recent FOIA litigation and that have consumed a considerable amount of time for all of us over the past year. As you know, I have discussed this subject with [REDACTED] after reviewing our regulation and your suggestions. However, I am unpersuaded that an amendment to our regulations along the lines you have suggested is either required or advisable at this time. Because of our apparently differing views on the scope of this balancing test, however, I have discussed the matter with the CIA General Counsel, Daniel B. Silver, who agrees that it would be useful for us to meet with him to discuss your concerns.

Accordingly, I'd appreciate hearing from you to arrange a meeting with Dan Silver if you are interested. Please do not hesitate to contact me [REDACTED] however, if you have any other questions or comments.

[REDACTED]
Office of General Counsel

OGC:WGJ:njp
Distribution:

- Orig - Addressee
1 - OGC Subj: Security E.O. 12065
1 - Chrono
1 - [REDACTED]
1 - [REDACTED]

STATINTL

→ Destroyed 16 Apr 1981

See material hereunder ←



General

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Administration Washington, DC 20405

DB/A 8-7

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STATINTL

20 APR 1979

[REDACTED]
Assistant for Information, DDA
Central Intelligence Agency
Washington, DC 20505

STATINTL

STATINTL

Dear [REDACTED]

We have reviewed HR [REDACTED] the issuances which implement Executive Order 12065. It is evident that much work went into their preparation and we are pleased with the result.

STATINTL

There are some points in HHB [REDACTED] that we believe should be changed in order to make it consistent with the provisions of the Order and its implementing Directive. Most of the recommended changes are relatively minor. We are, however, particularly concerned that the changes recommended in items 18, 20 and 21 of Enclosure 2 be undertaken immediately.

Please inform us of your actions in response to our recommendations.

Sincerely,

MICHAEL T. BLOUIN
Director
Information Security
Oversight Office

Enclosure

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ITEM	PAGE	PARA/SECTION	LINE	COMMENT
18	23	13c (2)		This condition, under which the Agency proposes to consider applying the balancing test, is too narrow in scope, i.e., it does not provide for consideration where the matter concerns public interest in foreign relations or national defense matters. The scope of condition (2) must be expanded. We recommend that (2) be changed along these lines: "Preclude public knowledge of foreign relations and national defense matters having a profound impact on the public interest."
STATINTL				
19	24	13f (1)		We do not understand the statement that classified information may be automatically assigned a lower level of classification than that originally assigned thereto. We believe the intent is to say that at the time of origination information may be assigned dates for automatic downgrading and that such downgrading is effective on the date stipulated without recourse to the originator. Recommend rewording along these lines. <i>→ NOT what item says, exactly - but see revision</i>
20	25	15a (2)		We question the propriety of CIA review for declassification of material originated outside CIA even if it refers to CIA activities. Recommend that, as a minimum, a statement be included that based on CIA review a recommendation is made to the agency of origin.
21	25	15 ^a _e (3)		We question the propriety (and ability) of CIA to review material in the possession of other agencies (except General Services Administration), particularly if the material is of non-CIA origin. Recommend this be clarified.
22	25	15b	6 & 7	Standard Form 325 is in the process of being cancelled. There are no plans for replacement. Suggest an agency form or format.
	25	15c	3	In order to give an option for declassification at the end of the first ten-year period, the line should be changed to read "... review shall be set for declassification or the next review thereof."

NO
CHANGE
pending
negotiation
[see OGC
memo]

OR-
CHANGE

CHANGE
to specify
referred
material
[see also
change in
Fed
for
sic]

BEING
CHANGED
ALREADY
(BY HN)

CHANGED
ALREADY
(see draft
for Fed.
Register)